



# Portugal

## Ratified the European Convention on Human Rights in 1978

### National Judge: Paulo Pinto De Albuquerque

[Judges' CVs](#) are available on the ECHR Internet site

Previous Judges: Ireneu Cabral Barreto (1998-2011), João de Deus Pinheiro Farinha (1977-1991), Manuel António Lopes Rocha (1991-1998)

The Court dealt with 222 applications concerning Portugal in 2017, of which 209 were declared inadmissible or struck out. It delivered 13 judgments (concerning 13 applications), 10 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2015	2016	2017
Applications allocated to a judicial formation	232	152	197
Communicated to the Government	91	14	25
Applications decided:	189	302	222
- Declared inadmissible or struck out (Single Judge)	127	225	198
- Declared inadmissible or struck out (Committee)	38	43	10
- Declared inadmissible or struck out (Chamber)	4	1	1
- Decided by judgment	20	33	13
Interim measures:	2	6	7
- Granted	1	0	1
- Refused (including out of scope)	1	6	6

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#).

Applications pending before the court on 01/01/2018	
Total pending Applications*	197
Applications pending before a judicial formation:	149
Single Judge	13
Committee (3 Judges)	14
Chamber (7 Judges)	117
Grand Chamber (17 Judges)	5

\*including applications for which completed application forms have not yet been received

### Portugal and ...

#### The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **668** Registry staff members of whom **7** are Portuguese.

## Noteworthy cases, judgments and decisions delivered

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### Grand Chamber

#### [Lopes de Sousa Fernandes v. Portugal](#)

19.12.2017

The case concerned the death of Mr Fernandes, the husband of Ms Lopes de Sousa Fernandes, following a series of medical problems that arose after a routine operation.

[No violation of the substantive limb of Article 2 \(right to life\)](#)

[Violation of the procedural limb of Article 2](#)

#### Cases regarding article 6

#### [Moreira Ferreira v. Portugal \(no. 2\)](#)

11.07.2017

The case concerned the rejection by the Supreme Court of a request lodged by the applicant for revision of a criminal judgment following a judgment delivered by the European Court of Human Rights on 5 July 2011.

[No violation of Article 6 § 1 \(right to a fair trial\)](#)

#### Protection of property cases (Article 1 of Protocol No. 1)

#### [Anheuser-Busch Inc. v. Portugal](#)

11.01.2007

The applicant company, based in the United States, produces Budweiser beer and exports it internationally. It complained that it was unable to market its beer in Portugal, since the designation Budweiser was reserved for a Czech company distributing its own beer under that name.

[No violation of Article 1 of Protocol No. 1 \(protection of property\)](#)

#### [Perdigão v. Portugal](#)

16.11.2010

The court fees which the applicants had to pay in expropriation proceedings were higher than the amount of compensation awarded to them.

[Violation of Article 1 of Protocol No. 1 \(protection of property\)](#)

## Noteworthy cases, judgments and decisions delivered

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### Chamber

#### Cases dealing with Article 6

#### [Right to a fair hearing](#)

#### [Antunes Rocha v. Portugal](#)

31.05.2005

In 1994 the applicant signed a temporary employment contract with the National Council for Emergency Civil Planning (CNPCE). She complained in particular that she had been investigated without her knowledge or consent.

[Violation of Article 6 § 1 and Article 8 \(right to respect for private and family life\)](#)

#### [Moreira Ferreira v. Portugal](#)

05.07.2011

Relying in particular on Article 6 § 1 (right to a fair trial), Ms Moreira Ferreira complained that she had not been heard by the Oporto Court of Appeal in criminal proceedings brought against her for threats and insults, resulting in a sentence of 265 hours of community service.

[Violation of Article 6 § 1](#)

#### [Ferreira Santos Pardal v. Portugal](#)

30.07.2015

The case concerned the dismissal of an action for civil liability brought by the applicant against the State, a dismissal which was contrary to the Supreme Court's settled case-law in the matter.

[Violation of Article 6 § 1](#)

#### [Ramos Nunes de Carvalho E Sá v. Portugal and Tato Marinho Dos Santos Costa Alves Dos Santos and Figueiredo v. Portugal](#)

21.06.2016

The cases concerned disciplinary proceedings brought against three judges on conclusion of which the High Council of the Judiciary (HCJ) imposed disciplinary penalties, and the review carried out by the Supreme Court of Justice as an appeal body.

[Violation of Article 6 § 1](#)

Right to a fair hearing within a reasonable time

**Flores Cardoso v. Portugal**

29.05.2012

The case concerned repayment by the State of a sum of money which the applicants had deposited with the Portuguese consulate in Mozambique when leaving the former Portuguese colony following the outbreak of civil war in 1976. The situation apparently concerns some 3,000 people. Mr Flores Cardoso complained that no account was taken of the depreciation in currency or of inflation when the money was repaid to him.

Violation of Article 6 § 1

No violation of Article 1 of Protocol No. 1 (protection of property).

**Valada Matos Das Neves v. Portugal**

29.10.2015

Excessive length of domestic proceedings brought by the applicant to challenge the termination of his contract of employment, and the lack of an effective remedy to provide redress on that account.

Violation of Article 6 § 1

Violation of Article 13 (right to an effective remedy)

Right of access to a court

**Lacerda Gouveia and Others v. Portugal**

01.03.2011

"Camarate case" - concerning death of then Prime Minister and Minister of Defence in a plane crash.

No violation of Article 6 § 1 (the Portuguese courts were not negligent)

Presumption of innocence

**Melo Tadeu v. Portugal**

23.10.2014

Violation of Article 6 § 2

Violation of Article 1 of Protocol No. 1 (protection of property)

**Cases dealing with private and/or family life (Article 8)**

**Dore v. Portugal and Karoussiotis v. Portugal**

01.02.2011

Proceedings concerning international child abduction ineffective.

Violation of Article 8 in each case

**Santos Nunes v. Portugal**

22.05.2012

The case concerned the enforcement of a decision granting Mr Santos Nunes custody of his child, whom the mother had placed in the care of another couple.

Violation of Article 8

**Sérvulo & Associados - Sociedade de Advogados, RI v. Portugal**

03.09.2015

The case concerned the search of a law firm's offices and the seizure of computer files and email messages, during an investigation into suspected corruption, acquisition of prohibited interests and money laundering in connection with the purchase by the Portuguese Government of two submarines from a German consortium.

No violation of Article 8

**Brito Ferrinho Bexiga Villa-Nova v. Portugal**

01.12.2015

The case concerned access to the bank accounts of a lawyer charged with tax fraud.

Violation of Article 8

**Soares de Melo v. Portugal**

16.02.2016

The case concerned an order for seven of Ms Soares de Melo's children to be taken into care with a view to their adoption, and its enforcement in respect of six of them.

Violation of Article 8

**Freedom of expression cases  
(Article 10)**

**Lopes Gomes da Silva v. Portugal**

28.09.2000

Conviction of the manager of the daily newspaper *Público* for libel.

Violation of Article 10

**Colação Mestre and SIC – Sociedade Independente de Comunicação S.A. v. Portugal**

26.04.2007

A journalist and a television channel were convicted of libel following a criminal complaint by the President of the Portuguese Professional Football League and chairman of FC Porto football club.

Violation of Article 10

**[Women on Waves and Others v. Portugal](#)**

03.02.2009

The applicants are associations which had chartered a ship for the purpose of holding information meetings on matters including abortion. The ship was banned from entering Portuguese territorial waters by a ministerial order and its entry was blocked by a Portuguese warship.

[Violation of Article 10](#)

**[Campos Dâmaso v. Portugal and Laranjeira Marques da Silva v. Portugal](#)**

24.04.2008 and 19.01.2010

Journalists convicted of offences including breaching the secrecy of judicial investigations (*segredo de justiça*).

[Violation of Article 10 in each case.](#)

**[Público - Comunicação Social, S.A. and Others v. Portugal](#)**

07.12.2010

Award of damages against Público newspaper for harming the reputation of "Sporting Clube de Portugal".

[Violation of Article 10](#)

**[Barata Monteiro da Costa Nogueira and Patrício Pereira v. Portugal](#)**

11.01.2011

Conviction of politicians who publicly accused an opponent of serious criminal conduct.

[No violation of Article 10](#)

**[Conceição Letria v. Portugal](#)**

12.04.2011

Conviction of journalist Joaquim Letria for defamation of a politician.

[Violation of Article 10](#)

**[Pinto Coelho v. Portugal](#)**

28.06.2011

Automatic application of publication ban.

[Violation of Article 10](#)

**[Almeida Leitão Bento Fernandes v. Portugal](#)**

12.03.2015

The case concerned the criminal conviction of Ms Fernandes for libelling a number of her in-laws, following publication of a novel relating family dramas in the context of the Portuguese diaspora in the United States and the colonial war.

[No violation of Article 10](#)

**[Pinto Coelho v. Portugal](#)**

22.03.2016

The case concerned the criminal-law fine imposed on Ms Pinto Coelho, a journalist,

for having broadcast in a news report excerpts which included sound recordings from a court hearing, obtained without permission from the judge.

[Violation of Article 10](#)

**Case concerning discrimination (Article 14)**

**[Carvalho Pinto de Sousa Morais v. Portugal](#)**

25.07.2017

The case concerned a decision of the Supreme Administrative Court to reduce the amount of compensation awarded to the applicant, a 50-year-old woman suffering from gynaecological complications, as a result of a medical error.

[Violation of Article 14 read together with Article 8 \(right to respect for private and family life\)](#)

**Cases dealing with property issues (Article 1 of Protocol No. 1)**

**[Almeida Garrett, Mascarenhas Falcão and Others v. Portugal](#)**

11.01.2000

The case concerned the expropriation and nationalisation of land as part of the agrarian reform implemented in Portugal after the 1974 revolution. The applicants received interim compensation in the form of Government bonds, but had yet to receive final compensation by the time of the Court's judgment.

[Violation of Article 1 of Protocol No. 1](#)

**Noteworthy cases, decisions delivered**

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**[P. v. Portugal \(no. 56027/09\)](#)**

06.09.2011

At birth, the applicant was registered as male. On reaching adulthood, she underwent gender reassignment treatment followed by surgery. She complained of the lack of legal recognition of her situation, coupled with the alleged absence of any legislation on the matter. **First case of its kind concerning Portugal.** Her request for legal recognition to the domestic courts was successful.

[Application struck out of the Court's list of cases.](#)

### [Da Conceição Mateus v. Portugal and Santos Januário v. Portugal](#)

08.10.2013

The cases concerned the payment of the applicants' public sector pensions, which were reduced in 2012 as a result of cuts to Portuguese government spending. The Court examined the compatibility of the reductions of the applicants' pension payments with Article 1 of Protocol No.1 (protection of property).

[Applications declared inadmissible as manifestly ill-founded.](#)

### [da Silva Carvalho Rico v. Portugal](#)

24.09.2015

The case concerned the reduction of retirement pensions following austerity measures taken in Portugal, in particular the extraordinary solidarity contribution ("CES").

[Application declared inadmissible as manifestly ill-founded.](#)

## Noteworthy pending cases

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### Grand Chamber

#### **Fernandes de Oliveira v. Portugal (no. 78103/14)**

The case concerns the complaint that the applicant's son, who suffered from mental disorders, committed suicide as a result of a psychiatric hospital's negligence in supervising him.

Relying in particular on Article 2 (right to life) of the Convention, Ms Fernandes de Oliveira complains that the authorities failed to protect the life of her son and were responsible for his death. She also complains about the length of the proceedings she brought against the hospital before the domestic courts.

In its Chamber [judgment](#) of 28 March 2017, the Court held, unanimously, that there had

been a violation of Article 2 (right to life/investigation) of the Convention.

[Case referred to the Grand Chamber on 18 September 2017](#)

[Grand Chamber hearing on 7 March 2018](#)

#### **Ramos Nunes de Carvalho e Sá v. Portugal (nos. 55391/13, 57728/13 and 74041/13)**

The case concerns disciplinary proceedings brought against a judge.

Relying on Article 6 § 1 (right to a fair hearing), the applicant alleges a breach of her right to an independent and impartial tribunal, her right to obtain a review of the facts established by the HCJ and her right to a public hearing.

In its Chamber [judgment](#) of 21 juin 2016, the Court held, unanimously, that there had been a violation of Article 6 § 1 (right to a fair trial) of the Convention.

[Case referred to the Grand Chamber on 17 October 2016](#)

[Grand Chamber hearing on 22 March 2017](#)

#### **Correia de Matos v. Portugal (no. 56402/12)**

The case concerns criminal proceedings brought against the applicant, a lawyer, for insulting a judge, and the fact that he was not permitted to conduct his own defence in those proceedings because the domestic courts required him to be represented by a lawyer.

Relying on Article 6 § 3 (c) (right to legal assistance of one's own choosing), the applicant complains of the decisions of the domestic courts refusing him leave to conduct his own defence in the criminal proceedings against him and requiring that he be represented by a lawyer.

[The Chamber relinquished jurisdiction in favor of the Grand Chamber on 13 September 2016](#)

[Grand Chamber hearing on 8 February 2017](#)